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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,576	08/27/2002	Peter Hillebrand De Haan	308.1001	7179

22856 7590 07/10/2003

MUSERLIAN, LUCAS AND MERCANTI, LLP  
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NEW YORK, NY 10016

EXAMINER

WILSON, KATINA M

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

10/070,576

Applicant(s)

DE HAAN ET AL.

Examiner

Katina M Wilson

Art Unit

2856

-- The MAILING DATE of this communication appears n the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Final Restriction*.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of species 1a and 1b in Paper No. 8 is acknowledged. The traversal is based upon Applicant's argument that "differences of species is not such as to require separate examinations". This has been found not to be the case as limitations of non-elected species include limitations that are classifiable in different areas. Regardless, election of species are not related to the "burden" requirements which is directed to distinctness type restrictions. Claim 6 recites a coil of electric circuit, which is not shown in the elected figures; claims 7-8, recites a transponder for obtaining wirelessly information, which is not shown in the elected figures; claims 11-15, recites a current conductive fabric, which is not shown in the elected figures.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Freud (4429343) in view of Applicant's admitted art (page 1, lines 1-15; page, 4, lines 10-14).

Freud teaches a moisture sensor having a thin metal film electrode deposited on a non conducting substrate to form two sets of interdigitated fingers (electrical circuit) (figs. 1 and 2, abstract). Freud does not teach the specific use of an ICPs for detecting the moisture. However it is known in the art to use an layer for detecting moisture as the ICP layer provide the change in resistance/capacitance taught by Freud in the means to determine the presence of moisture.

As to claim 17, Applicant admits the moisture sensor has been used in baby diaper, incontinence diaper, mattress and/or incubator for detecting bodily fluid (page 1, lines 11-15).

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted art in view of Freud in further view of Medzius (5040411).

As to claim 2, Freud does not teach a substrate having a layer on a first side and electrodes on a second side opposite the first side. However, Medzius teaches a moisture sensor having an outer glass ply 14 (substrate) with a flexible interlayer 18 (layer) on one side and electro-conductive members 22 and 24 (electrodes) on the other side spaced apart and electrically insulated from each other by gap 26 (figs. 1 and 2) in order to determine the presence of moisture on a windshield. It would have been obvious to one skilled in the art to have electro-conductive members on one side of a substrate and a layer on the other side of the substrate as taught by in order to utilize the sensor in an environment which requires the sensing of moisture on a single side such as the windshield sensor of Medzius.

As to claim 3, Freud and Medzius both teach the use of a comb capacitor structure.

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freud in view of Admitted art in further view of Fard (6097297).

As to claim 18, Freud does not teach a moisture sensor to be placed on the inner side of the diaper. However, Fard teaches that it is known to place a sensor inside a diaper to determine the presence of a wet diaper (fig 2). It would have been obvious to a skilled artisan at the time the invention was made to include the sensor of Freud in a diaper as taught by Fard to determine the presence of a wet diaper.

***Allowable Subject Matter***

6. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Closing***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katina M Wilson whose telephone number is 703-308-7958. The examiner can normally be reached on Mon-Fri 6:15am-4:00pm, off 1st Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E Williams can be reached on 703-305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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308-3432 for regular communications and 703-308-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

KW  
June 30, 2003

  
DANIEL S. LARKIN  
PRIMARY EXAMINER